SouthTrust Bank
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January 29, 2004

Ms. Jennifer J. Johnson
Secretary, Board of Governors
Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551
Attention Docket No. R-1170

Re: Proposed Amendments to Regulation M

Dear Ms. Johnson:

SouthTrust Bank ("SouthTrust") appreciates the opportunity to comment on the proposed amendments to Regulation M. SouthTrust Corporation is a $51.9 billion regional bank holding company with over 717 financial centers located in nine states.

Presently, SouthTrust is compliant with Section 182 of the Consumer Leasing Act ("CLA") and sections 213.3(a) and 213.7(b) of Regulation M. These sections require creditors to disclose information in a clear and conspicuous manner. The Federal Reserve Board ("Board") now proposes to add another definition of "clear and conspicuous" that is consistent with the standard contained in Regulation P and to include guidance regarding type-sizes that are deemed to meet this standard. This additional definition of what is "clear and conspicuous" only makes the requirements unclear, increases the costs for both financial institutions and consumers, and ultimately only confuses the standard for all parties involved.

SouthTrust offers the following recommendations in relation to the proposed amendments to Regulation M:

Clear and Conspicuous Standard is Too Restrictive for Disclosures Required By Regulation M

The Limited Nature of Regulation P

As stated above, the proposed amendments to Regulation M include adopting the clear and conspicuous standard found in Regulation P. This standard is effective for purposes of Regulation P due to the narrow focus of that regulation. In Regulation P, the only document that must comply with the clear and conspicuous standard is the Privacy Notice, which is a stand-alone document mailed annually by SouthTrust to customers. However, applying this same standard to disclosures that are controlled by Regulation M is impractical due to the diversification of disclosures that fall under the regulation.

Disclosures Required by Regulation M

Regulation M, Section 213.4, lists the nineteen (19) disclosure requirements for any consumer lease. These disclosures are specific to this regulation and have specific requirements that certain required disclosures be segregated to identify the lease. (Section 213.3). SouthTrust is familiar with the current requirements of Regulation M and uses the model forms as provided in the regulation.

If these proposals are adopted, the Board must revise model forms to meet the clear and conspicuous definition.

SouthTrust's Opposition to the New Clear and Conspicuous Standard

The clear and conspicuous definition found in Regulation P is appropriate for the narrow focus of that regulation. Both the CLA and Regulation M contain a standard for the clear and conspicuous disclosure of information. SouthTrust opposes the Board proposed amendment that would add the Regulation P definition of clear and conspicuous to the existing Regulation M standards. To do so will create several different standards which financial institutions are to follow when disclosing information to customers. These standards will necessitate the changing of the model forms and ultimately increase the cost associated with disclosing required information.

SouthTrust is not aware of any consumer complaints indicating that our Regulation M disclosures are confusing or unclear. It is unclear why a change is necessary. If SouthTrust is required to analyze disclosures to determine whether bullet points should be added, margins widened, line spacing adjusted, or boldface key words added, then we will be subjected to an unrealistic subjective standard. If these determinations are to be made, it is probable that some adjustments will have to be made to each required disclosure. The requirements related to font size, margin size, headings, and bullets will drastically increase the length of the disclosures and add new costs.

The Board must develop model forms for financial institutions that meet the required definition of clear and conspicuous. SouthTrust contends that existing model forms do not require changes.

Type-Size Restrictions are Subjective and Not Necessary

Inconsistent Type-Size Proposals

The proposed amendments to Regulation M seek to specify type-sizes that are deemed sufficient to satisfy the clear and conspicuous standard. Specifically, the amendments state that disclosures made in 12-point type will generally meet this standard, but that disclosures in less than 12-point type do not necessarily violate this standard. In addition, the amendments state that disclosures provided in a type-size less than 8-point would likely be too small to satisfy the clear and conspicuous standard. The restrictions imposed by the proposed amendments are not necessary and are too subjective. Given the proposed type-size range, an examiner subjectively determines whether the type-size applied to a particular disclosure meets the clear and conspicuous standard. Our Current Motor Vehicle Lease Agreement is printed in 9-point type. Therefore, should the proposed amendments become finalized, there is room for interpretation on behalf of the examiners when reviewing our disclosures as to whether we are compliant with the

regulation. One examiner may find that a disclosure is "clear and conspicuous" while another examiner may disagree and determine that the disclosures violate the standard. In order to comply with the clear and conspicuous standard, clear direction must be given within the amendments to avoid varying subjective interpretations.

Increased Costs to SouthTrust and Consumers

If SouthTrust relies solely on 12-point type, then printed disclosures and applications will be lengthened. This in turn may make the applications and disclosures harder to understand. If SouthTrust is required to increase the font size and the length of their documents, consumers will be less inclined to review them. By increasing the font, useful information that is typically kept together for clarification purposes will be separated. Bullet points that were once coupled with related information will now be separated because of the font size increase. The costs associated with this increase in paper will be compounded by the increased costs of postage required to mail lengthier documents to customers. Furthermore, the increase in the amount of paper will result in higher costs associated with printing the documents. This cost will not be borne by the printers, but will be passed on to the financial institutions and ultimately to the consumer.

Clear and Conspicuous Standard Invites Litigation

As you know, the largest civil damages are awarded in a class action lawsuit, or any other lawsuit, once the questions of fact are presented to the jury for consideration. As proposed, these requirements leave too many "questions of fact" open for interpretation by financial institutions. For example, the proposed amendments state that disclosures in 12-point type will generally be deemed to satisfy the clear and conspicuous standard. However, disclosures that are presented in a type-set of less than 12 point do not automatically violate the standard, but disclosures in less than 8-point type are deemed too small to satisfy the standard. Therefore, any disclosures that are presented in a typeset between, and including, 8-point and 11-point are arguably not "clear and conspicuous." With this question of fact remaining open, financial institutions have no solace as to their compliance with the standard and are forced to use the 12-point type in order to assure compliance. Once the use of the 12-point type is used each issue, as discussed above, again becomes a concern.

Additionally, financial institutions will be forced to defend suits filed by various plaintiffs alleging that disclosures are not "clear and conspicuous" due to the content of disclosures. Pursuant to the proposed amendments, financial institutions will be subject to costly lawsuits concerning whether "everyday words", "explanations that are imprecise", and "wide margins" are appropriately incorporated into disclosures. Furthermore, given the subjective nature of the proposals, it will be very easy for plaintiff's attorneys to argue that additional bullets or headings should have been used or that shorter sentences are possible. The increase in the amount of lawsuits filed against financial institutions for alleged regulatory infractions will be costly. Even if the financial institution prevails, it is still responsible for attorney's fees. Courts will be presented with the difficult task of defining the subjective terms and determining whether the financial institution is in violation of the regulation.

Proposed Amendments Will Result in Disclosures That Are Less Helpful to Consumers

The proposed amendments to Regulation M will most likely lengthen disclosures. SouthTrust documents are currently four pages long. Consumers are less likely to review disclosures printed in a lengthy format. Additionally, useful information that is typically kept together for clarification purposes will be separated.

Amendments Impose Expensive Regulatory Burden

The cost associated with the burden of reviewing and revising each and every document and disclosure will not out weigh the slight, or nonexistent, benefit to the consumer of having the language of their Regulation B disclosures consistent with the language in their Regulation P disclosure.

Conclusion

SouthTrust strongly urges the Board not to adopt the proposed amendments to Regulation M. The proposals are too restrictive and subjective to be useful and are unduly burdensome on financial institutions. If the government has not received excessive complaints from consumers regarding disclosures under Regulation M, the Regulation should not be amended. If the government has received complaints from consumers regarding disclosures under Regulation M, those concerns should be addressed individually to the regulation and not with a universal approach applied to several regulations.

The proposed amendments do not help the industry facilitate compliance, which is a goal of the Board. It increases our costs and complicates compliance. Different financial products call for many different types of disclosures. A uniform standard is not the best way to address disclosures. The industry is quite accustomed to dealing with different kinds of notice and disclosure requirements with different regulations. The existing Regulation M requirements are sufficient to provide consumers with the information they need to make informed decisions about leases.

We thank you for the opportunity to comment on the proposed amendments to Regulation M, and we hope these comments will be useful.

Sincerely,

Heather Thornburgh, CRCM
Group Vice President
Compliance Department Manager
SouthTrust Bank